



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

FEB - 3 2017

Diane Y. Smoyer

Arlington, VA 22207

RE: MUR 7016

Dear Ms. Smoyer:

The Federal Election Commission reviewed the allegations in your complaint received on February 24, 2016. On January 23, 2017, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations and close its file in this matter. Accordingly, the Commission closed its file in this matter on January 23, 2017.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). A copy of the dispositive General Counsel's Response is enclosed for your information.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosure
General Counsel's Report

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

**ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT**

MUR: 7016

Complaint Receipt Date: February 24, 2016

Response Date: March 8, 2016

**Respondents: Bruce Shuttleworth¹ of Congress,
and Bruce Shuttleworth, as
treasurer (collectively the
"Committee");
Bruce Shuttleworth¹**

EPS Rating: [REDACTED]

Alleged Statutory

52 U.S.C. § 30114(b)

Regulatory Violations:

11 C.F.R. § 113.1(g)

The Complainant alleges that she contributed \$2,600 to the 2014 congressional campaign of her estranged husband, Bruce Shuttleworth ("the candidate"). she later asked for a refund of that contribution, and the Respondents refused to provide one.² Complainant notes that she and the candidate are in the process of getting a divorce, and alleges that he is using campaign funds, including the Complainant's contribution, to obtain a "favorable financial outcome" in the divorce proceedings.³ The Complaint asserts that this is an impermissible use of campaign funds. The candidate acknowledges that the Complaint was filed during the divorce proceedings, but characterizes the Complaint as meritless. The candidate states that he is not using the remaining campaign funds -- funds he loaned to the campaign -- to fulfill any personal expense or

¹ Bruce Shuttleworth was a candidate for the U.S. House of Representatives in the 8th Congressional District of Virginia. Shuttleworth announced his withdrawal from the race on March 14, 2014.

² Complainant also alleges that Respondent has asserted that the refund request will be considered in the context of an overall financial settlement in the divorce.

³ Compl. at 2.

1 obligation.⁴ The candidate argues the Committee was under no obligation to refund a contribution
2 unless the contribution was excessive or from a prohibited source, neither of which is the case here.

3 The Act and the Commission's regulations prohibit the conversion of contributed campaign
4 funds to personal use.⁵ Personal use means any use of funds in a campaign account of a present or
5 former candidate to fulfil a commitment, obligation or expense of any person that would exist
6 irrespective of the candidate's campaign or duties as a Federal officeholder.⁶ The available
7 information does not indicate that the candidate converted campaign funds, including the
8 Complainant's \$2,600 contribution, to personal use. Additionally, there is no information, to date,
9 that suggests the candidate used campaign funds to benefit the candidate's financial position in his
10 divorce proceedings.

11 Based on its experience and expertise, the Commission has established an Enforcement
12 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
13 assess whether particular matters warrant further administrative enforcement proceedings. These
14 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity
15 and the amount in violation; (2) the apparent impact the alleged violation may have had on the
16 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
17 potential violations and other developments in the law. This matter is rated as low priority for
18 Commission action after application of these pre-established criteria. Given that low rating, and the
19 other circumstances presented, we recommend that the Commission dismiss the allegations

⁴ Respondent states, "I am in no way using remaining campaign funds (loaned by me) to leverage anything. I will be properly paying off my loans (partially) with the remaining campaign funds and those monies will be properly taken into account by the Divorce Court Judge." E-mail response from Bruce Shuttleworth, (Mar. 8, 2016, 12:19 EST).

⁵ See 52 U.S.C. § 30114(b); 11 C.F.R. § 113.1(g).

⁶ *Id.*

consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

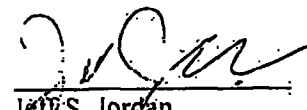
Kathleen M. Guith
Acting Associate General Counsel


12.7.16

Date

BY:


Stephen Gura
Deputy Associate General Counsel


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Donald E. Campbell
Attorney